

**TO: PARLIAMENTARY STANDING COMMITTEE
ON SOCIAL POLICY AND LEGAL AFFAIRS**

**RESPONSE TO: PARLIAMENTARY INQUIRY
INTO A BETTER FAMILY LAW SYSTEM TO
SUPPORT AND PROTECT THOSE AFFECTED
BY FAMILY VIOLENCE**





Access Community Services Ltd (Access) is a specialist settlement, employment and training, youth and social enterprise service provider, operating in Logan and the wider Southeast Queensland region for over 30 years. We are a community based, non-profit organisation providing support to approximately 10 000 clients annually. Through our service delivery we recognise that women, particularly those from culturally and linguistically diverse (CALD) backgrounds, play a fundamental role in the effective settlement of families and in establishing the multicultural identity of Australia. The skills, leadership and resilience of women has a direct impact on the settlement and

social integration mindset of the entire family due to the central role women play in keeping families cohesive.

Access has a specific focus on domestic and family violence (DFV) as a legal and health issue for CALD women in Australia, particularly new arrivals. As a settlement service provider, we maintain that the first five years of migrants and refugees' lives in Australia is the most important time to identify clients facing DFV, because this type of behaviour is most prevalent during times of transition. Recent ABS statistics have identified the need for this issue to be at the forefront of legal initiatives.

Since the age of 15:



¹"Violence against Women: Key Statistics," Australia's National Research Organisation for Women's Safety (May 14, 2014). <http://anrows.org.au/sites/default/files/Violence-Against-Australian-Women-Key-Statistics.pdf>

However, research, and the experiences of frontline staff, demonstrates that CALD women experience significant barriers in seeking support services and legal action, which include:

Service Complexity

Bureaucracy and fragmentation leads to gaps in services for women at risk of DFV. A service may unintentionally appear intimidating to CALD communities. The service image portrayed through front-of-house staff or promotional material may not reflect the cultural diversity that exists in the community itself. For example, the employment of staff from CALD backgrounds may not be evident, and the service may not provide information in appropriate languages. Many women will not access services if they are staffed by same-culture professionals or staff who are known to, or potentially known to, their families and broader community networks. This is due in large part to concerns about confidentiality, and is particularly relevant to young women, who are in general subject to more community monitoring than their male counterparts.²

Lack of Knowledge about DFV Laws and Available Services

Specialised support services and Community Leaders have reported that CALD women are still in the stages of learning to recognise signs of DFV, thus do not report experiences of violence. Many migrants and refugees originate from countries where violence against women is not only legal, but embedded in the definition of marriage³. Furthermore, newly arrived migrants and refugees often rely on their local cultural community (i.e. family, friends, community & religious leaders) about services and DFV processes. Often, these community members do not have a clear

understanding of DFV themselves or advise clients of worse-case scenarios which lead to fear (i.e. child safety involvement or children removed), and as a result no action is taken by those experiencing oppression.

Language Barriers

Even though many refugees acquire reasonable verbal English language skills relatively soon after arrival, they often experience confidence issues and feel misunderstood. The fact that many service providers find foreign accents difficult to understand exacerbates existing confidence issues. CALD women are also hesitant to use interpreting services due to the reported lack of training of interpreters to objectively translate, and the risk of confidentiality breaches⁴.

Home Country as a Frame of Reference

Many newly arrived migrant women come from a cultural context where seeking help for problems outside the family is considered to bring shame on the individual, family and community. In addition, refugee women often evaluate their current experiences of violence using their home countries as a point of reference, and assess their present situations in relation to how they were previously treated. Women may believe they are better off experiencing abuse in a peaceful, safe country like Australia, rather than remaining in their home country⁵.



² Annabelle Allimant and Beata Ostapiej-Piatkowski, Supporting women from CALD backgrounds who are victim/survivors of sexual violence: Challenges and opportunities for practitioners (ACSSA: 2011). <https://aifs.gov.au/publications/supporting-women-cald-backgrounds-who-are-victim-survivors-sexual-violence/introduction>

³ Natalie Taylor and Judy Putt, Adult sexual violence in Indigenous and culturally and linguistically diverse communities in Australia (AIC: 2007). <http://www.aic.gov.au/publications/current%20series/tandi/341-360/tandi345.html>

⁴ Victoria Finn. "The Path to Justice: Migrant and Refugee Women's Experience of the Courts," A report prepared for the Judicial Council on Diversity (Canberra: 2016).

⁵ M. Adelman, E. Erez, & G. Carol. "Intersections of immigration and domestic violence: Voices of battered immigrant women," *Feminist Criminology*, 4(1) (2009): 32-56.



Community Pressure

Women have reported that there is pressure in their communities to persevere and keep their family together even if DFV takes place. Some elders and Community Leaders encourage women experiencing DFV to refrain from reporting and to “solve the problem in-house.” When refugees leave their home country, they usually have few, if any, family members to turn to for support, and due to language barriers, it is difficult to meet new circles of friends. This makes it easier for male partners to isolate and control women. Even if migrant women do have family members in host countries, certain orthodox views will carry over from their homeland that condone DFV⁶.

Fear of Authority

Experiences of DFV are exacerbated by lack of trust in authority figures, such as law enforcement, court practitioners and migration officials. The concept of trusting authority is new for many migrants and refugees, due to previous experiences of government corruption. Migrant

women are usually sponsored or linked to a male family member’s visa and their lack of knowledge of the migration system leads them to believe they will be deported if they contact officials about DFV. Furthermore, Community Leaders have reported that many women will not report DFV based on the fear that their abuser will be taken away (possibly to their death), and that their children will be apprehended by the Department of Child Safety⁷.

Access has implemented a health-justice program (99 Steps), designed to improve pathways for vulnerable CALD women and their children, to support services that assist in the prevention of DFV. Another key point of difference is the emphasis on recovery for those transitioning out of crisis support and who need to re-engage with the local community, workforce and wider supports. Our diverse work with women experiencing DFV through counselling, legal and casework responses has informed our knowledge of gaps in family law procedures and services.

⁶Natalie Taylor and Judy Putt, Adult sexual violence in Indigenous and culturally and linguistically diverse communities in Australia (AIC: 2007). <http://www.aic.gov.au/publications/current%20series/tandi/341-360/tandi345.html>

⁷M. Adelman, E. Erez & N. Shalhoub-Kevorkian, N., “Policing violence against minority women in multicultural societies: “community” and the politics of exclusion,” *Police & Society*, 7, (2003):105-133.



1

HOW CAN THE FAMILY LAW SYSTEM MORE QUICKLY AND EFFECTIVELY ENSURE THE SAFETY OF PEOPLE WHO ARE OR MAY BE AFFECTED BY FAMILY VIOLENCE, INCLUDING BY:

- a. **facilitating the early identification of and response to family violence?**
- b. **considering the legal and non-legal support services required to support the early identification of and response to family violence?**

As a settlement service, we have witnessed the impact of one's migration status and cultural background on his or her ability to navigate and advocate for family law services. This is particularly apparent in cases of DFV.

Recommendations:

- Migration and family law practitioners pursue ongoing professional development in both areas of law to provide wrap-around support and advocacy for clients;
- Migration and family law practitioners pursue ongoing professional development to recognise, refer and respond to DFV cases;
- Cross-sector collaboration and relevant information sharing between migration and family law agencies;
- Court practitioners, law enforcement and DFV mainstream organisations streamline processes for the use of interpreters e.g. "request for interpreter" provisions within intake assessment;
- Free information sessions held for CALD communities on Australian family law, divorce, child safety and custody; and
- Increase capacity for service providers to direct women experiencing DFV to crisis support if children are in danger, and faster responses from Child Safety.



2

HOW CAN CONSENT ORDERS WHERE THERE ARE ALLEGATIONS OR FINDINGS OF FAMILY VIOLENCE BE IMPROVED, HAVING REGARD TO THE LEGISLATIVE AND REGULATORY FRAMEWORKS, AND HOW CAN THESE FRAMEWORKS BE IMPROVED TO BETTER SUPPORT THE SAFETY OF FAMILY MEMBERS, AS WELL AS OTHER ARRANGEMENTS WHICH MAY BE PUT IN PLACE AS ALTERNATIVE OR COMPLEMENTARY MEASURES?

One of the greatest issues encountered for clients is that the services they are engaged with do not communicate their processes or have different agendas. For instance, refugees heavily advocate for the client to remain away from the perpetrator even if that is against the victim's will.

Recommendations:

- Services to educate those experiencing DFV on all their options to empower their decision making ability;
- Courts to collaborate with women's DFV refugees regarding the status of protection and consent orders and perpetrator movements;
- Legal representatives should link victims and perpetrators of DFV into recovery services following court processes, even in some cases where formal charges have not been laid;
- Comprehensive men's behaviour change programs that allow facilitators to provide feedback on the readiness of participants to exit the program e.g. Logan's current perpetrator program must exit participants after 16 weeks even if individuals do not appear rehabilitated;
- More funding and resources for men who are victims and perpetrators of DFV, including preventative programs in schools with young men, prior to engaging in DFV (programs such as this to exist but they are not culturally sensitive); and
- DFV services to clearly identify their areas of funding, and limitations, and communicate rules of utilising shelters to non-English speaking clients e.g. Transportation to refugees - many new arrivals do not have access to a vehicle and due to lack of English, cannot navigate public transportation to unfamiliar shelter locations.

3

DESCRIBE THE EFFECTIVENESS OF ARRANGEMENTS WHICH ARE IN PLACE IN THE FAMILY COURTS, AND THE FAMILY LAW SYSTEM MORE BROADLY, TO SUPPORT FAMILIES BEFORE THE COURTS WHERE ONE OR MORE PARTY IS SELF-REPRESENTED, AND WHERE THERE ARE ALLEGATIONS OR FINDINGS OF FAMILY VIOLENCE.

Family courts is an area of DFV where migrant and refugee populations experience a range of barriers in advice, support and advocacy.

Administration & Form Filling

A lack of English skills prevents CALD communities from adequately navigating and understanding the court system. Migrants and refugees often have little if any knowledge of Australian law and in many cases, do not know what DFV is.

Complexity of Law Jargon

Legal terminology is difficult for most people to understand, however the language and cultural barriers that migrants and refugees have enhances this challenge. Further, some CALD communities have limited education and as a result struggle to comprehend legal terminology and its implications.

Financial Barriers

Many CALD clients are not able to afford legal support to navigate the court system. They have expressed that if they are employed, they surpass the threshold for Legal Aid but still cannot afford a lawyer.

Ineffective Use of Interpreters

Many cases have been reported of law enforcement and court practitioners not using interpreters to communicate the contents of protection orders to victims and perpetrators. Law enforcement often rely on family members to relay information, which is highly problematic. Furthermore, it is unclear if the courts or clients/service providers

are responsible for engaging interpreters. During court hearings, interpreters often do not attend and therefore adjournments occur more than hearings, which prolongs the whole experience (in some cases for months).

Communication of Hearing Outcomes

In instances where victims of DFV are not required to attend court, the outcomes of these proceedings are not always communicated to the victim or perpetrator in a timely process. The order is posted to the victim's home address, but if the victim has re-located to a refuge, she will not receive the content of the protection order (and may not have knowledge of how to do so).

Protection of Witnesses

Given the tight-knit nature of CALD communities, witnesses of DFV who are summoned to attend court do not feel safe speaking out against perpetrators due to fear of community backlash or revenge from the perpetrator. Women also fear that if they disclose their experience of DFV, word may spread to their community or their abusive partners. This may lead to isolation or further abuse⁸⁹.

Cross-Applications

DFV cross-applications are problematic and waste time in court processes. When victims and perpetrators apply for protection orders against each other, streamlined processes should facilitate one action for both parties.

⁸⁹Natalie Taylor and Judy Putt, *Adult sexual violence in Indigenous and culturally and linguistically diverse communities in Australia* (AIC: 2007). <http://www.aic.gov.au/publications/current%20series/tandi/341-360/tandi345.html>

⁹⁰Victoria Finn. "The Path to Justice: Migrant and Refugee Women's Experience of the Courts," A report prepared for the Judicial Council on Diversity (Canberra: 2016).



4

HOW CAN THE FAMILY LAW SYSTEM BETTER SUPPORT PEOPLE WHO HAVE BEEN SUBJECTED TO FAMILY VIOLENCE RECOVER FINANCIALLY, INCLUDING THE EXTENT TO WHICH FAMILY VIOLENCE SHOULD BE TAKEN INTO ACCOUNT IN THE MAKING OF PROPERTY DIVISION ORDERS?

Recommendations:

- Hold perpetrators accountable for their actions and recommend that they make arrangements to leave the home of the victim;
- Improve assistance transitioning into the private rental market if victims and perpetrators are not eligible for public housing;
- Implement processes in real estate agencies where victims of violence can be removed from leases without having to contact the perpetrator – victims should not have to contact violent perpetrators to resolve financial issues;
- Implement measures to protect property owners should a victim or perpetrator tenant leave the home;
- Introduce a “court crisis payment” application process to hire private lawyers if the Legal Aid system is inundated;
- Implement assisted transition into support and recovery programs that encourage education and employment; and
- Make Special Child Care Benefit payments available to families involved with DFV court proceedings.



5

HOW CAN THE CAPACITY OF ALL FAMILY LAW PROFESSIONALS— INCLUDING JUDGES, LAWYERS, REGISTRARS, FAMILY DISPUTE RESOLUTION PRACTITIONERS AND FAMILY REPORT WRITERS— BE STRENGTHENED IN RELATION TO MATTERS CONCERNING FAMILY VIOLENCE?

Recommendations:

- Require skilled and sympathetic interpreters to assist with law enforcement, court processes and service providers when engaging CALD victims and perpetrators of DFV;
- Require all family law professionals to complete cultural sensitivity training;
- Facilitate quicker responses to protection order breaches; and
- Increase sector collaboration between law enforcement, court officials and NGOs.



6

IDENTIFY THE POTENTIAL FOR A NATIONAL APPROACH FOR THE ADMINISTRATION AND ENFORCEMENT OF INTERVENTION ORDERS FOR PERSONAL PROTECTION, HOWEVER DESCRIBED.

Australia undoubtedly is a world leader in recognising the urgency of a coordinated, national response to DFV. The 140 recommendations and initiative of the Special DFV Taskforce in the *Not Now Not Ever* report demonstrates the Australian government's dedication to end DFV and support victims into recovery. Family law continues to progress in Australia, and as it does, Access will continue to advocate for the complex needs of CALD communities. In addition to the recommendations listed above, a national approach to improve DFV family law processes includes robust data capture on victims and perpetrators entering the DFV court system (e.g. police do not collect data on country of birth of DFV disturbances), user surveys of the court system and regular review of this feedback.

We appreciate the opportunity to contribute to this consultation and congratulate the Parliamentary Inquiry on its ongoing engagement and consultations, which will continue to build a strong, equitable and just Australia.

CASE STUDY

A young Burmese woman and her family were threatened by her husband at knife point in a weekend domestic dispute. She had brought her children to her parents' house and he wanted her to return home. A family member contacted the police, who attended the scene without an interpreter. An interpreter was not engaged in the investigation and the perpetrator was arrested. Neither the victim nor the perpetrator understood if any legal orders were in place and when the perpetrator was released the next day, he aggressively contacted the victim making suicidal threats if she did not return home. Access endeavoured to organise refuge for Monday night, as the perpetrator continued to contact the victim making suicide threats, but due to language and transport barriers, the victim showed up to the wrong location and was turned away. She remained in her parents' home for another night whilst receiving suicide threats from the perpetrator. Refuge was organised the following night and Access caseworkers transported the woman and her children to a temporary refuge.

This victim now has a 2-year protection order in place against her husband. Despite the challenges listed below, she has not returned to the perpetrator. The support from her caseworker and parents has motivated her to re-locate and recover from the decade of DFV she has experienced.

CASE CHALLENGES:

- Police did not engage an interpreter during the domestic disturbance, thus neither the victim nor the perpetrator understood the provisions of the protection order.
- Refuge was not offered to the victim and her family at the scene of the domestic disturbance.
- This victim's first language is Karenni and there are only 2 accredited Karenni interpreters in Australia. Access later

learned that one of the interpreters that had been engaged during the critical incident was leaking information to the perpetrator regarding the intake assessment and possibly re-location process. This was reported to TIS National and they are conducting an investigation.

- Clear instructions were not communicated to the victim regarding the rules of the refuge and she organised for her uncle to drop her off at the confidential location. She was scolded for this and told if it happens again she will be forced to leave the refuge.
- It is unclear if crisis support services are funded to transport women to shelters. This logistical task is extremely risky. Police and the crisis provider did not support the caseworkers to transport the victim and her children to refuge.
- After a few days in the refuge, the victim requested alternative food to Western options (rice, noodles, broth) and it was communicated to her caseworker she should be grateful for what she is getting. In this instance the caseworker organised to transport food provided by her parents to the shelter.
- The outcome of the protection order was not communicated to the victim for more than 2 weeks.
- The client and her children were transferred to another shelter outside of Logan without notifying her Access caseworker.
- The client has been unable to stop rental payments even though she has left the premises. RTA does not offer assistance to victims fleeing DFV to be removed from rental agreements without contacting the perpetrator.

Logan-Beenleigh has recently been selected as an DFV Integrated Service Response pilot site which endeavours to clarify the above miscommunications.



SUBMITTED BY ACCESS GROUP INTERNATIONAL LIMITED (ACCESS)
MAY 2017

CONTACT

 Access Group International Limited

Mobile: 